

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SAMMY MOCTEZUMA,)	
)	
Plaintiff,)	
v.)	NO. 16 C 560
)	
CITY OF CHICAGO, and UNKNOWN CHICAGO)	
POLICE OFFICERS,)	
)	
Defendants.)	JURY TRIAL DEMANDED

COMPLAINT

NOW COMES the Plaintiff, SAMMY MOCTEZUMA, by and through his attorney, BASILEIOS J. FOUTRIS, and for his Complaint against the Defendants, CITY OF CHICAGO, and UNKNOWN CHICAGO POLICE OFFICERS, states as follows:

Nature of Action

1. This action is brought pursuant to the Laws of the United States Constitution, through 42 U.S.C. §1983 and 42 U.S.C. §1988, to redress deprivations of the Civil Rights of the Plaintiff by the Defendants in connection with the Plaintiff's January 15, 2015 arrest.

Jurisdiction and Venue

2. This Court has jurisdiction pursuant to 28 U.S.C. §1331, 28 U.S.C. §1343, and 28 U.S.C. §1367.

3. At all relevant times, the Plaintiff was a resident of the State of Illinois in this Judicial District.

4. The CITY OF CHICAGO is a municipal corporation located in the State of Illinois in this Judicial District. At all relevant times, the CITY OF CHICAGO was the employer of Defendants, UNKNOWN CHICAGO POLICE OFFICERS ("Defendant Officers"). The

Defendant Officers were at all relevant times employed by the CITY OF CHICAGO as duly appointed police officers in the CITY OF CHICAGO acting within the course and scope of their employment and under color of law. The UNKNOWN CHICAGO POLICE OFFICERS are all being sued in their individual capacities with respect to the federal claims.

5. All the events giving rise to the claims asserted herein occurred within this Judicial District.

Facts

6. On January 15, 2015, the Plaintiff was riding his bike in Chicago. Two of the Defendant Officers approached the Plaintiff as he was riding his bike, directed the Plaintiff to stop, and thereafter detained and searched the Plaintiff. The search included going through the Plaintiff's pockets. There was no probable cause, or any other legal justification, to stop, detain or search the Plaintiff. The Plaintiff was eventually arrested, or caused to be arrested, by acts and/or omissions of all of the Defendant Officers.

7. At the time of his arrest, without justification, the Plaintiff was beaten by the Defendant Officers. The Plaintiff posed no threat of danger to the Defendant Officers immediately before he was beaten, as he was beaten, or after he was beaten. The Plaintiff suffered injuries and bodily harm due to the manner in which he was treated at the time of his arrest. There was no probable cause or legal justification to use the amount of force utilized by the Defendant Officers. The Plaintiff's conduct before, during and after his arrest did not warrant the amount of force used by the Defendant Officers.

8. At the time that the Plaintiff was beaten and arrested, each Defendant Officer was in close proximity to both the Plaintiff and the other Defendant Officers, and could have

intervened to stop or prevent the use of force, as well as the detainment, search and arrest, but failed to do so.

9. At the time that the Plaintiff was beaten, detained, searched and arrested, the Defendant Officers knew that there was no probable cause or legal justification to use force, detain, search and/or arrest the Plaintiff.

10. The acts of Defendants were intentional, and/or willful and wanton and/or negligent.

**COUNT I - 42 U.S.C. §1983
Excessive Force – DEFENDANT OFFICERS**

11. The Plaintiff re-alleges Paragraphs 1 through 10, inclusive, and incorporates those Paragraphs herein, as though fully stated as this Paragraph 11.

12. As described above, the Defendant Officers used excessive force during the arrest of the Plaintiff.

13. The misconduct was undertaken by the Defendant Officers under color of law, under the course and scope of their employment, was objectively unreasonable, with malice, and was undertaken intentionally and/or with willful indifference to the Plaintiff's constitutional rights.

14. The acts of the Defendant Officers were undertaken in violation of the Plaintiff's rights as guaranteed by the United States Constitution.

15. As a direct and proximate result of the acts of the Defendant Officers the Plaintiff was injured, suffered emotional anxiety, mental trauma, humiliation, fear, stress, pain and suffering, and other damages.

WHEREFORE, the Plaintiff, SAMMY MOCTEZUMA, prays for judgment in his favor and against the Defendants, UNKNOWN CHICAGO POLICE OFFICERS, awarding

compensatory damages, punitive damages, attorney fees, and costs against the Defendants, UNKNOWN CHICAGO POLICE OFFICERS, as well as any other relief this Court deems just and appropriate.

COUNT II - 42 U.S.C. §1983
Unlawful Detention – DEFENDANT OFFICERS

16. The Plaintiff re-alleges Paragraphs 1 through 15, inclusive, and incorporates those Paragraphs herein, as though fully stated as this Paragraph 16 .

17. As described in the preceding paragraphs the conduct of the Defendant Officers, acting under color of law, constituted an unlawful detention/seizure of the Plaintiff in violation of the United States Constitution.

18. The misconduct was undertaken by the Defendant Officers under color of law, under the course and scope of their employment, was objectively unreasonable, with malice, and was undertaken intentionally and/or with willful indifference to the Plaintiff's constitutional rights.

19. The acts of the Defendant Officers were undertaken in violation of the Plaintiff's rights as guaranteed by the United States Constitution.

20. As a direct and proximate result of the acts of the Defendant Officers the Plaintiff was injured, suffered emotional anxiety, mental trauma, humiliation, fear, stress, pain and suffering, and other damages.

WHEREFORE, the Plaintiff, SAMMY MOCTEZUMA, prays for judgment in his favor and against the Defendants, UNKNOWN CHICAGO POLICE OFFICERS, awarding compensatory damages, punitive damages, attorney fees, and costs against the Defendants, UNKNOWN CHICAGO POLICE OFFICERS, as well as any other relief this Court deems just and appropriate.

COUNT III - 42 U.S.C. §1983
Unlawful Search – DEFENDANT OFFICERS

21. The Plaintiff re-alleges Paragraphs 1 through 20, inclusive, and incorporates those Paragraphs herein, as though fully stated as this Paragraph 21.

22. As described in the preceding paragraphs the conduct of the Defendant Officers, acting under color of law, constituted an unlawful search the Plaintiff.

23. The misconduct was undertaken by the Defendant Officers under color of law, under the course and scope of their employment, was objectively unreasonable, with malice, and was undertaken intentionally and/or with willful indifference to the Plaintiff's constitutional rights.

24. The acts of the Defendant Officers were undertaken in violation of the Plaintiff's rights as guaranteed by the United States Constitution.

25. As a direct and proximate result of the acts of the Defendant Officers the Plaintiff was injured, suffered emotional anxiety, mental trauma, humiliation, fear, stress, pain and suffering, and other damages.

WHEREFORE, the Plaintiff, SAMMY MOCTEZUMA, prays for judgment in his favor and against the Defendants, UNKNOWN CHICAGO POLICE OFFICERS, awarding compensatory damages, punitive damages, attorney fees, and costs against the Defendants, UNKNOWN CHICAGO POLICE OFFICERS, as well as any other relief this Court deems just and appropriate.

COUNT IV - 42 U.S.C. §1983
Failure to Intervene – DEFENDANT OFFICERS

26. The Plaintiff re-alleges Paragraphs 1 through 25, inclusive, and incorporates those Paragraphs herein, as though fully stated as this Paragraph 26.

27. As described above, the Defendant Officers stood by and watched without intervening to prevent the violence to which the Plaintiff was subjected in violation of the United States Constitution, and also stood by and watched without intervening when the Plaintiff was subjected to an unlawful detention/seizure and an unlawful search, even though they each had a reasonable opportunity to prevent the harm and/or the unlawful behavior referenced above, but failed to do so.

28. The misconduct was undertaken by the Defendant Officers under color of law, under the course and scope of their employment, was objectively unreasonable, with malice, and was undertaken intentionally and/or with willful indifference to the Plaintiff's constitutional rights.

29. The acts of the Defendant Officers were undertaken in violation of the Plaintiff's rights as guaranteed by the United States Constitution.

30. As a direct and proximate result of the acts of the Defendant Officers the Plaintiff was injured, suffered emotional anxiety, mental trauma, humiliation, fear, stress, pain and suffering, and other damages.

WHEREFORE, the Plaintiff, SAMMY MOCTEZUMA, prays for judgment in his favor and against the Defendants, UNKNOWN CHICAGO POLICE OFFICERS, awarding compensatory damages, punitive damages, attorney fees, and costs against the Defendants, UNKNOWN CHICAGO POLICE OFFICERS, as well as any other relief this Court deems just and appropriate.

**COUNT V - Illinois State Law
Battery – CHICAGO**

31. The Plaintiff re-alleges Paragraphs 1 through 30, inclusive, and incorporates those Paragraphs herein, as though fully stated as this Paragraph 31.

32. As described above the Defendant Officers intended to cause, and did cause, harmful and/or offensive contact of the Plaintiff at the time of the Plaintiff's arrest and detention.

33. The misconduct was undertaken by the Defendant Officers under color of law, under the course and scope of their employment as police officers for the CITY OF CHICAGO, was objectively unreasonable, with malice, and was undertaken intentionally and was willful and wanton and/or negligent.

34. As a direct and proximate result of the acts of the Defendant Officers the Plaintiff was injured, suffered emotional anxiety, mental trauma, humiliation, fear, stress, pain and suffering, and other damages.

WHEREFORE, the Plaintiff, SAMMY MOCTEZUMA, prays for judgment in his favor and against the Defendant, CITY OF CHICAGO, awarding compensatory damages and costs against the Defendant, CITY OF CHICAGO, as well as any other relief this Court deems just and appropriate.

**Count VI - Illinois State Law
Indemnification - CHICAGO**

35. The Plaintiff re-alleges Paragraphs 1 through 34, inclusive, and incorporates those Paragraphs herein, as though fully stated as this Paragraph 35.

36. At all relevant times the Defendant Officers were acting under color of law and under the course and scope of their employment.

37. At all relevant times the CITY OF CHICAGO was the employer of the Defendant Officers.

WHEREFORE, the Plaintiff, SAMMY MOCTEZUMA, pursuant to 745 ILCS 10/9-102, demands judgment against Defendant, CITY OF CHICAGO, in the amounts awarded to the

Plaintiff against the individual Defendants, and for whatever additional relief this Court deems just and appropriate.

JURY DEMAND

The Plaintiff demands a trial by jury on all Counts.

Respectfully Submitted by,

s/Basileios J. Foutris
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